

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JONATHAN LEE RICHES,

Plaintiff,

v.

THANKSGIVING, et al.,

Defendants.

No. C 07-6108 MJJ (PR)

ORDER OF DISMISSAL

Plaintiff, a federal prisoner proceeding pro se, filed this pro se complaint under 42 U.S.C. § 1983 against “Thanksgiving, Pilgrims, Mayflower Movers, Pilgrim Pride, Turkey Hill, Black Friday, Corn on the Cob, Cleveland Indians.”

A federal court must conduct a preliminary screening in any case in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). In its review, the court must identify any cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim upon which relief may be granted or seek monetary relief from a defendant who is immune from such relief. See id. § 1915A(b)(1),(2). Pro se pleadings must, however, be liberally construed. See Balistreri v. Pacifica Police Dep’t, 901 F.2d 696, 699 (9th Cir. 1988). To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law. See West v. Atkins, 487 U.S. 42, 48 (1988).

Plaintiff states that the Thanksgiving holidays “offend[]” him. He alleges his Sixth

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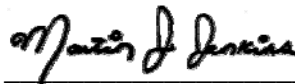
1 Amendment rights are being violated because he cannot spend the holidays with his friends
2 and family. He further alleges that “defendants are responsible for higher traffic, that they
3 are “conspiring with the oil companies to drive up gas prices,” and that Thanksgiving is
4 “responsible for his mistreatment.” He also claims that “Defendants are in violation of
5 separation of church and state.” Plaintiff seeks 100 million dollars in damages, and for a
6 restraining order against the celebration of the Thanksgiving holidays. The defendants
7 named by plaintiff appear to be various private food companies, a baseball team, a holiday,
8 and the day after Thanksgiving. To the extent any of these defendants are actual entities that
9 may be sued, they are private organizations that do not act under color of state law, an
10 essential element of a § 1983 action. See Gomez v. Toledo, 446 U.S. 635, 640 (1980).
11 Purely private conduct, no matter how wrongful, is not covered under § 1983. See Ouzts v.
12 Maryland Nat’l Ins. Co., 505 F.2d 547, 559 (9th Cir. 1974), cert. denied, 421 U.S. 949
13 (1975). Accordingly, plaintiff has failed to state a cognizable claim for relief under § 1983.

14 For the foregoing reasons, this action is DISMISSED.

15 The Clerk shall close the file.

16 IT IS SO ORDERED.

17 DATED: December 21, 2007



MARTIN J. JENKINS
United States District Judge